

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1236
OFFERED BY Mr. Nadler

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Extreme Risk Protec-
3 tion Order Act of 2019”.

4 SEC. 2. EXTREME RISK PROTECTION ORDER GRANT PRO-
5 GRAM.

6 (a) DEFINITIONS.—In this section:

7 (1) ELIGIBLE ENTITY.—The term “eligible enti-
8 ty” means—

9 (A) a State or Indian Tribe—

10 (i) that enacts legislation described in
11 this section;

12 (ii) with respect to which the Attorney
13 General determines that the legislation de-
14 scribed in subsection (c) complies with the
15 requirements of this section; and

16 (iii) that certifies to the Attorney
17 General that the State or Indian Tribe
18 shall—

1 (I) use the grant for the purposes
2 described in this section; and

3 (II) allocate not less than 25 per-
4 cent of the amount received under a
5 grant under this section for training
6 for law enforcement; or

7 (B) a unit of local government or other
8 public or private entity that—

9 (i) is located in a State or in the terri-
10 tory under the jurisdiction of an Indian
11 Tribe that meets the requirements of sub-
12 paragraph (A); and

13 (ii) certifies to the Attorney General
14 that the unit of local government or entity
15 shall—

16 (I) use the grant for the purposes
17 described in this section ; and

18 (II) allocate not less than 25 per-
19 cent of the amount received under a
20 grant under this section for training
21 for law enforcement.

22 (2) EXTREME RISK PROTECTION ORDER.—The
23 term “extreme risk protection order” means a writ-
24 ten order or warrant, issued by a State or tribal
25 court or signed by a magistrate (or other com-

1 parable judicial officer), the primary purpose of
2 which is to reduce the risk of firearm-related death
3 or injury by doing one or more of the following:

4 (A) Prohibiting a named individual from
5 having under the custody or control of the indi-
6 vidual, owning, purchasing, possessing, or re-
7 ceiving a firearm.

8 (B) Having a firearm removed or requiring
9 the surrender of firearms from a named indi-
10 vidual.

11 (3) FIREARM.—The term “firearm” has the
12 meaning given the term in section 921 of title 18,
13 United States Code.

14 (4) INDIAN TRIBE.—The term “Indian Tribe”
15 has the meaning given the term “Indian tribe” in
16 section 1709 of the Public Safety and Community
17 Policing Act of 1994 (34 U.S.C. 10389).

18 (5) LAW ENFORCEMENT OFFICER.—The term
19 “law enforcement officer” means a public servant
20 authorized by State, local, or tribal law or by a
21 State, local, or tribal government agency to—

22 (A) engage in or supervise the prevention,
23 detection, investigation, or prosecution of an of-
24 fense; or

25 (B) supervise sentenced criminal offenders.

1 (6) PETITIONER.—The term “petitioner”
2 means an individual authorized under State or tribal
3 law to petition for an extreme risk protection order.

4 (7) STATE.—The term “State” means—

5 (A) a State;

6 (B) the District of Columbia;

7 (C) the Commonwealth of Puerto Rico;

8 and

9 (D) any other territory or possession of the
10 United States.

11 (8) UNIT OF LOCAL GOVERNMENT.—The term
12 “unit of local government” has the meaning given
13 the term in section 901 of the Omnibus Crime Con-
14 trol and Safe Streets Act of 1968 (34 U.S.C.
15 10251).

16 (b) GRANT PROGRAM ESTABLISHED.—

17 (1) IN GENERAL.—The Director of the Office of
18 Community Oriented Policing Services of the De-
19 partment of Justice shall establish a program under
20 which, from amounts made available to carry out
21 this section, the Director may make grants to eligi-
22 ble entities to assist in carrying out the provisions
23 of the legislation described in this section.

24 (2) USE OF FUNDS.—Funds awarded under
25 this section may be used by an applicant to—

1 (A) enhance the capacity of law enforce-
2 ment agencies and the courts of a State, unit
3 of local government, or Indian Tribe by pro-
4 viding personnel, training, technical assistance,
5 data collection, and other resources to carry out
6 legislation described in this section;

7 (B) train judges, court personnel, and law
8 enforcement officers to more accurately identify
9 individuals whose access to firearms poses a
10 danger of causing harm to themselves or others
11 by increasing the risk of firearms suicide or
12 interpersonal violence;

13 (C) develop and implement law enforce-
14 ment and court protocols, forms, and orders so
15 that law enforcement agencies and the courts
16 may carry out the provisions of the legislation
17 described in this section in a safe and effective
18 manner, including through the removal and
19 storage of firearms pursuant to extreme risk
20 protection orders under the legislation; and

21 (D) raise public awareness and under-
22 standing of the legislation described in this sec-
23 tion so that extreme risk protection orders may
24 be issued in appropriate situations to reduce
25 the risk of firearms-related death and injury.

1 (3) APPLICATION.—An eligible entity desiring a
2 grant under this section shall submit to the Attorney
3 General an application at such time, in such man-
4 ner, and containing or accompanied by such infor-
5 mation as the Attorney General may reasonably re-
6 quire.

7 (4) INCENTIVES.—For each of fiscal years 2020
8 through 2024, the Attorney General shall give af-
9 firmative preference in awarding any discretionary
10 grant awarded by the Office of Community Oriented
11 Policing Services to a State or Indian Tribe that has
12 enacted legislation described in this section.

13 (5) AUTHORIZATION OF APPROPRIATIONS.—
14 There are authorized to be appropriated such sums
15 as are necessary to carry out this section.

16 (c) ELIGIBILITY FOR EXTREME RISK PROTECTION
17 ORDER GRANT PROGRAM.—

18 (1) REQUIREMENTS.—Legislation described in
19 this section is legislation that establishes require-
20 ments that are substantially similar to the following:

21 (A) APPLICATION FOR EXTREME RISK
22 PROTECTION ORDER.—A petitioner, including a
23 law enforcement officer, may submit an applica-
24 tion to a State or tribal court, on a form de-

1 signed by the court or a State or tribal agency,
2 that—

3 (i) describes the facts and cir-
4 cumstances justifying that an extreme risk
5 protection order be issued against the
6 named individual; and

7 (ii) is signed by the applicant, under
8 oath.

9 (B) NOTICE AND DUE PROCESS.—The in-
10 dividual named in an application for an extreme
11 risk protection order as described in subpara-
12 graph (A) shall be given written notice of the
13 application and an opportunity to be heard on
14 the matter in accordance with this section.

15 (C) ISSUANCE OF EXTREME RISK PROTEC-
16 TION ORDERS.—

17 (i) HEARING.—

18 (I) IN GENERAL.—Upon receipt
19 of an application described in sub-
20 paragraph (A) or request of an indi-
21 vidual named in such application, the
22 court shall order a hearing to be held
23 within a reasonable time, no longer
24 than 30 days after the date of such
25 application or request.

1 (II) DETERMINATION.—If the
2 court finds by a preponderance of the
3 evidence or a higher evidentiary
4 standard established by a State that
5 the respondent poses a danger of
6 causing harm to himself, herself, or
7 others by having access to a firearm,
8 the court may issue an extreme risk
9 protection order.

10 (ii) DURATION OF EXTREME RISK
11 PROTECTION ORDER.—An extreme risk
12 protection order shall be in effect—

13 (I) until an order terminating or
14 superseding the order is issued; or

15 (II) for a set period of time.

16 (D) EX PARTE EXTREME RISK PROTEC-
17 TION ORDERS.—

18 (i) IN GENERAL.—Upon receipt of an
19 application described in subparagraph (A),
20 the court may issue an ex parte extreme
21 risk protection order, if—

22 (I) the application for an extreme
23 risk protection order alleges that the
24 respondent poses a danger of causing

1 harm to himself, herself, or others by
2 having access to a firearm; and

3 (II) the court finds there is rea-
4 sonable cause to believe, or makes a
5 finding under such other, higher evi-
6 dentiary standard as a State may es-
7 tablish, that the respondent poses a
8 danger of causing harm to himself,
9 herself, or others by having access to
10 a firearm.

11 (ii) DURATION OF EX PARTE EX-
12 TREME RISK PROTECTION ORDER.—An ex
13 parte extreme risk protection order shall
14 remain in effect only until the hearing re-
15 quired under this section.

16 (E) STORAGE OF REMOVED FIREARMS.—
17 All firearms removed or surrendered pursuant
18 to an extreme risk protection order shall be re-
19 tained by a law enforcement officer or a law en-
20 forcement agency until the named individual re-
21 gains his or her eligibility to possess firearms,
22 except that the legislation may authorize a law
23 enforcement agency to—

24 (i) contract with a manufacturer,
25 dealer, or importer licensed under chapter

1 44 of title 18, United States Code, for the
2 secure storage of firearms; and

3 (ii) transfer the firearm upon proof
4 that the named individual will no longer
5 have access to the firearm.

6 (F) NOTIFICATION.—

7 (i) IN GENERAL.—A State or tribal
8 court that issues an extreme risk protec-
9 tion order shall notify the Attorney Gen-
10 eral or the comparable State or tribal
11 agency, as applicable, of the order as soon
12 as practicable or within a designated pe-
13 riod of time. The notice shall be submitted
14 in an electronic format, in a manner pre-
15 scribed by the Attorney General or the
16 comparable State or tribal agency.

17 (ii) UPDATE OF DATABASES.—As
18 soon as is practicable or within a des-
19 ignated period of time after receiving a no-
20 tification under clause (i), the Attorney
21 General or the comparable State or tribal
22 agency shall ensure the extreme risk pro-
23 tection order is reflected in the National
24 Instant Criminal Background Check Sys-
25 tem.

1 (G) CONFIDENTIALITY PROTECTIONS.—All
2 personally identifiable information provided to
3 the court, the Department of Justice, and com-
4 parable State or tribal agencies shall be kept
5 confidential, as required by the laws of the rel-
6 evant jurisdiction, except as necessary to carry
7 out this Act.

8 (2) ADDITIONAL PROVISIONS.—Legislation de-
9 scribed in this subsection may—

10 (A) provide procedures for the termination
11 of an extreme risk protection order;

12 (B) provide procedures for the renewal of
13 an extreme risk protection order;

14 (C) establish burdens and standards of
15 proof for issuance of orders described in this
16 subsection that are substantially similar or
17 higher than the burdens and standards of proof
18 set forth in this subsection;

19 (D) limit the individuals who may submit
20 an application described in this subsection, pro-
21 vided that, at a minimum, law enforcement offi-
22 cers are authorized to do so; and

23 (E) include other authorizations or re-
24 quirements the State or tribal authorities deem
25 appropriate.

1 **SEC. 3. FEDERAL EXTREME RISK PROTECTION ORDERS.**

2 (a) IN GENERAL.—Chapter 44 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 932. Extreme risk protection orders**

6 “(a) DEFINITIONS.—In this section:

7 “(1) The term ‘court’ means a district court of
8 the United States.

9 “(2) The term ‘designated law enforcement offi-
10 cer’ means a law enforcement officer, designated by
11 a United States marshal, who agrees to receive fire-
12 arms, ammunition, and permit, as applicable, sur-
13 rendered under subsection (f).

14 “(3) The term ‘Director’ means the Director of
15 the Administrative Office of the United States
16 Courts.

17 “(4) The term ‘ex parte extreme risk protection
18 order’ or ‘ex parte order’ means an extreme risk pro-
19 tection order issued under subsection (c).

20 “(5) The term ‘extreme risk protection order’
21 means an order issued by a Federal court under this
22 section, the primary purpose of which is to reduce
23 the risk of firearm-related death or injury by enjoin-
24 ing an individual from purchasing, possessing, or re-
25 ceiving, in or affecting interstate and foreign com-
26 merce, a firearm or ammunition.

1 “(6) The term ‘family or household member’,
2 with respect to a respondent, means any—

3 “(A) parent, spouse, sibling, or child re-
4 lated by blood, marriage, or adoption to the re-
5 spondent;

6 “(B) dating partner of the respondent;

7 “(C) individual who has a child in common
8 with the respondent, regardless of whether the
9 individual has—

10 “(i) been married to the respondent;

11 or

12 “(ii) lived together with the respond-
13 ent at any time;

14 “(D) individual who resides or has resided
15 with the respondent during the past year;

16 “(E) domestic partner of the respondent;

17 “(F) individual who has a legal parent-
18 child relationship with the respondent, including
19 a stepparent-stepchild and grandparent-grand-
20 child relationship; or

21 “(G) individual who is acting or has acted
22 as the legal guardian of the respondent.

23 “(7) The term ‘law enforcement officer’ means
24 any officer, agent, or employee of the Federal Gov-
25 ernment or a State government, unit of local govern-

1 ment, or Indian tribe (as defined in section 4 of the
2 Indian Self-Determination and Education Assistance
3 Act (25 U.S.C. 5304)) authorized—

4 “(A) by law or by a government agency to
5 engage in or supervise the prevention, detection,
6 or investigation of any violation of criminal law;
7 or

8 “(B) by law to supervise sentenced criminal
9 offenders.

10 “(8) The term ‘long-term extreme risk protection
11 order’ or ‘long-term order’ means an extreme
12 risk protection order issued under subsection (d).

13 “(9) The term ‘mental health agency’ means an
14 agency of a State, tribal, or local government or its
15 contracted agency that is responsible for mental
16 health services or co-occurring mental health and
17 substance abuse services.

18 “(10) The term ‘national instant criminal background
19 check system’ means the national instant
20 criminal background check system established under
21 section 103 of the Brady Handgun Violence Prevention
22 Act (34 U.S.C. 40901).

23 “(b) PETITION.—

24 “(1) IN GENERAL.—A family or household
25 member of the applicable individual, or a law en-

1 enforcement officer, may submit to an appropriate dis-
2 trict court of the United States a petition requesting
3 that the court issue an ex parte extreme risk protec-
4 tion order or long-term extreme risk protection order
5 with respect to an individual.

6 “(2) NO FEES.—A court may not charge a peti-
7 tioner any fee for filing a petition under paragraph
8 (1).

9 “(3) CONFIDENTIALITY.—A petitioner who is a
10 law enforcement officer may provide the identity of
11 the sources of the petitioner, and any identifying in-
12 formation, to the court under seal.

13 “(c) EX PARTE ORDERS.—

14 “(1) TIMING.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), a court that receives a peti-
17 tion for an ex parte order under subsection (b)
18 shall grant or deny the petition on the date on
19 which the petition is submitted.

20 “(B) LATE PETITIONS.—If a court receives
21 a petition for an ex parte order submitted
22 under subsection (b) too late in the day to per-
23 mit effective review, the court shall grant or
24 deny the petition on the next day of judicial
25 business at a time early enough to permit the

1 court to file an order with the clerk of the court
2 during that day.

3 “(2) EVIDENCE REQUIRED.—Before issuing an
4 ex parte order, a court shall require that the peti-
5 tioner submit a signed affidavit, sworn to before the
6 court, that—

7 “(A) explains why the petitioner believes
8 that the respondent poses a risk of imminent
9 personal injury to himself or herself, or another
10 individual, by purchasing, possessing, or receiv-
11 ing a firearm or ammunition; and

12 “(B) describes the interactions and con-
13 versations of the petitioner with—

14 “(i) the respondent; or

15 “(ii) another individual, if the peti-
16 tioner believes that information obtained
17 from that individual is credible and reli-
18 able.

19 “(3) STANDARD FOR ISSUANCE OF ORDER.—A
20 court may issue an ex parte order only upon a find-
21 ing of probable cause to believe that—

22 “(A) the respondent poses a risk of immi-
23 nent personal injury to himself or herself, or
24 another individual, by purchasing, possessing,
25 or receiving a firearm or ammunition; and

1 “(B) the order is necessary to prevent the
2 injury described in subparagraph (A).

3 “(4) DURATION.—An ex parte order shall ex-
4 pire on the earlier of—

5 “(A) the date that is 14 days after the
6 date of issuance; or

7 “(B) the date on which the court deter-
8 mines whether to issue a long-term order with
9 respect to the respondent.

10 “(d) LONG-TERM ORDERS.—

11 “(1) HEARING REQUIRED.—If a court receives
12 a petition for an extreme risk protection order for a
13 respondent under subsection (b), the court shall hold
14 a hearing to determine whether to issue a long-term
15 order with respect to the respondent either—

16 “(A)(i) except as provided in clause (ii),
17 not later than 72 hours after the court issues
18 an ex parte order with respect to the respond-
19 ent; or

20 “(ii) if the court issues an ex parte order
21 with respect to the respondent but the order is
22 not served on the respondent within 72 hours of
23 the issuance, not later than 72 hours after the
24 order is served on the respondent; or

1 “(B) if the respondent waives the right to
2 a hearing under subparagraph (A) or the court
3 does not issue an ex parte order, not later than
4 14 days after the date on which the court re-
5 ceives the petition.

6 “(2) NOTICE AND OPPORTUNITY TO BE
7 HEARD.—

8 “(A) IN GENERAL.—The court shall pro-
9 vide the respondent with notice and the oppor-
10 tunity to be heard at a hearing under this sub-
11 section, sufficient to protect the due process
12 rights of the respondent.

13 “(B) RIGHT TO COUNSEL.—

14 “(i) IN GENERAL.—At a hearing
15 under this subsection, the respondent may
16 be represented by counsel who is—

17 “(I) chosen by the respondent;
18 and

19 “(II) authorized to practice at
20 such a hearing.

21 “(ii) COURT-PROVIDED COUNSEL.—If
22 the respondent is financially unable to ob-
23 tain representation by counsel, the court,
24 at the request of the respondent, may ap-
25 point counsel to represent the respondent

1 in proceedings under this subsection. If the
2 Court appoints counsel for the respondent
3 pursuant to this subparagraph, the court
4 shall provide reasonable compensation and
5 payment of expenses.

6 “(3) BURDEN OF PROOF; STANDARD.—At a
7 hearing under this subsection, the petitioner—

8 “(A) shall have the burden of proving all
9 material facts; and

10 “(B) shall be required to demonstrate, by
11 clear and convincing evidence, that—

12 “(i) the respondent poses a risk of
13 personal injury to himself or herself, or an-
14 other individual, during the period to be
15 covered by the proposed extreme risk pro-
16 tection order, by purchasing, possessing, or
17 receiving a firearm or ammunition; and

18 “(ii) the order is necessary to prevent
19 the injury described in clause (i).

20 “(4) ISSUANCE.—Upon a showing of clear and
21 convincing evidence under paragraph (3), the court
22 shall issue a long-term order with respect to the re-
23 spondent that shall be in effect for a period of not
24 more than 180 days.

1 “(5) DENIAL.—If the court finds that there is
2 not clear and convincing evidence to support the
3 issuance of a long-term order, the court shall dis-
4 solve any ex parte order then in effect with respect
5 to the respondent.

6 “(6) RENEWAL.—

7 “(A) NOTICE OF SCHEDULED EXPIRA-
8 TION.—Thirty days before the date on which a
9 long-term order is scheduled to expire, the court
10 that issued the order shall—

11 “(i) notify the petitioner and the re-
12 spondent that the order is scheduled to ex-
13 pire; and

14 “(ii) advise the petitioner and the re-
15 spondent of the procedures for seeking a
16 renewal of the order under this paragraph.

17 “(B) PETITION.—If a family or household
18 member of the respondent, or a law enforce-
19 ment officer, believes that the conditions under
20 paragraph (3)(B) continue to apply with respect
21 to a respondent who is subject to a long-term
22 order, the family or household member or law
23 enforcement officer may submit to the court
24 that issued the order a petition for a renewal of
25 the order.

1 “(C) HEARING.—A court that receives a
2 petition submitted under subparagraph (B)
3 shall hold a hearing to determine whether to
4 issue a renewed long-term order with respect to
5 the respondent.

6 “(D) APPLICABLE PROCEDURES.—The re-
7 quirements under paragraphs (2) through (5)
8 shall apply to the consideration of a petition for
9 a renewed long-term order submitted under
10 subparagraph (B) of this paragraph.

11 “(E) ISSUANCE.—Upon a showing by clear
12 and convincing evidence that the conditions
13 under paragraph (3)(B) continue to apply with
14 respect to the respondent, the court shall issue
15 a renewed long-term order with respect to the
16 respondent.

17 “(e) FACTORS TO CONSIDER.—In determining
18 whether to issue an extreme risk protection order, a
19 court—

20 “(1) shall consider factors including—

21 “(A) recent threats or acts of violence by
22 the respondent directed toward other individ-
23 uals;

1 “(B) recent threats or acts of violence by
2 the respondent directed toward himself or her-
3 self;

4 “(C) recent acts of cruelty to animals by
5 the respondent; and

6 “(D) evidence of ongoing abuse of con-
7 trolled substances or alcohol by the respondent
8 that has led to threats or acts of violence di-
9 rected toward himself, herself, or other individ-
10 uals; and

11 “(2) may consider other factors, including—

12 “(A) the reckless use, display, or bran-
13 dishing of a firearm by the respondent;

14 “(B) a history of violence or attempted vio-
15 lence by the respondent against other individ-
16 uals; and

17 “(C) evidence of explicit or implicit threats
18 made by the person through any medium that
19 demonstrate that the person poses a risk of per-
20 sonal injury to himself, herself, or others.

21 “(f) RELINQUISHMENT OF FIREARMS AND AMMUNI-
22 TION.—

23 “(1) ORDER OF SURRENDER.—Upon issuance
24 of an ex parte order or long-term order, the court
25 shall order the respondent to surrender all firearms

1 and ammunition that the respondent possesses or
2 owns, in or affecting interstate commerce, as well as
3 any permit authorizing the respondent to purchase
4 or possess firearms (including a concealed carry per-
5 mit), to—

6 “(A) the United States Marshals Service;

7 or

8 “(B) a designated law enforcement officer.

9 “(2) SURRENDER AND REMOVAL.—

10 “(A) MANNER OF SERVICE.—

11 “(i) PERSONAL SERVICE.—Except as
12 provided in clause (ii), a United States
13 marshal or designated law enforcement of-
14 ficer shall serve an extreme risk protection
15 order on a respondent by handing the
16 order to the respondent.

17 “(ii) ALTERNATIVE SERVICE.—If the
18 respondent cannot reasonably be located
19 for service as described in clause (i), an ex-
20 treme risk protection order may be served
21 on the respondent in any manner author-
22 ized under the Federal Rules of Civil Pro-
23 cedure.

24 “(B) REMOVAL.—Except as provided in
25 subparagraph (C), a United States marshal or

1 designated law enforcement officer serving an
2 extreme risk protection order personally on the
3 respondent shall—

4 “(i) request that all firearms and am-
5 munition, in or affecting interstate com-
6 merce, as well as any permit authorizing
7 the respondent to purchase or possess fire-
8 arms (including a concealed carry permit),
9 that the respondent possesses or owns—

10 “(I) be immediately surrendered
11 to the United States marshal or des-
12 ignated law enforcement officer; or

13 “(II) at the option of the re-
14 spondent, be immediately surrendered
15 and sold to a federally licensed fire-
16 arms dealer; and

17 “(ii) take possession of all firearms
18 and ammunition described in clause (i)
19 that are not sold under subclause (II) of
20 that clause, as well as any permit de-
21 scribed in that clause, that are—

22 “(I) surrendered;

23 “(II) in plain sight; or

24 “(III) discovered pursuant to a
25 lawful search.

1 “(C) ALTERNATIVE SURRENDER.—If a
2 United States marshal or designated law en-
3 forcement officer is not able to personally serve
4 an extreme risk protection order under subpara-
5 graph (A)(i), or is not reasonably able to take
6 custody of the firearms, ammunition, and per-
7 mits under subparagraph (B), the respondent
8 shall surrender the firearms, ammunition, and
9 permits in a safe manner to the control of a
10 United States marshal or designated law en-
11 forcement officer not later than 48 hours after
12 being served with the order.

13 “(3) RECEIPT.—

14 “(A) ISSUANCE.—At the time of surrender
15 or removal under paragraph (2), a United
16 States marshal or designated law enforcement
17 officer taking possession of a firearm, ammuni-
18 tion, or a permit pursuant to an extreme risk
19 protection order shall—

20 “(i) issue a receipt identifying all fire-
21 arms, ammunition, and permits that have
22 been surrendered or removed; and

23 “(ii) provide a copy of the receipt
24 issued under clause (i) to the respondent.

1 “(B) FILING.—Not later than 72 hours
2 after service of an order under paragraph
3 (2)(A), the United States marshal who served
4 the order or designated another law enforce-
5 ment officer to do so shall—

6 “(i) file the original receipt issued
7 under subparagraph (A) of this paragraph
8 with the court that issued the extreme risk
9 protection order; and

10 “(ii) ensure that the United States
11 Marshals Service retains a copy of the re-
12 ceipt.

13 “(C) DESIGNATED LAW ENFORCEMENT
14 OFFICER.—If a designated law enforcement of-
15 ficer issues a receipt under subparagraph (A),
16 the officer shall submit the original receipt and
17 a copy of the receipt to the appropriate United
18 States marshal to enable the United States
19 marshal to comply with subparagraph (B).

20 “(4) FORFEITURE.—If a respondent knowingly
21 attempts, in violation of an extreme risk protection
22 order, to access a firearm, ammunition, or a permit
23 that was surrendered or removed under this sub-
24 section, the firearm, ammunition, or permit shall be

1 subject to seizure and forfeiture under section
2 924(d).

3 “(g) RETURN OF FIREARMS AND AMMUNITION.—

4 “(1) NOTICE.—If an extreme risk protection
5 order is dissolved, or expires and is not renewed, the
6 court that issued the order shall order the United
7 States Marshals Service to—

8 “(A) confirm, through the national instant
9 criminal background check system and any
10 other relevant law enforcement databases, that
11 the respondent may lawfully own and possess
12 firearms and ammunition; and

13 “(B)(i) if the respondent may lawfully own
14 and possess firearms and ammunition, notify
15 the respondent that the respondent may re-
16 trieve each firearm, ammunition, or permit sur-
17 rendered by or removed from the respondent
18 under subsection (f); or

19 “(ii) if the respondent may not lawfully
20 own or possess firearms and ammunition, notify
21 the respondent that each firearm, ammunition,
22 or permit surrendered by or removed from the
23 respondent under subsection (f) will be returned
24 only when the respondent demonstrates to the
25 United States Marshals Service that the re-

1 spondent may lawfully own and possess fire-
2 arms and ammunition.

3 “(2) RETURN.—If an extreme risk protection
4 order is dissolved, or expires and is not renewed, and
5 the United States Marshals Service confirms under
6 paragraph (1)(A) that the respondent may lawfully
7 own and possess firearms and ammunition, the court
8 that issued the order shall order the entity that pos-
9 sesses each firearm, ammunition, or permit surren-
10 dered by or removed from the respondent under sub-
11 section (f) to return those items to the respondent.

12 “(h) RETURN OF FIREARMS AND AMMUNITION IM-
13 PROPERLY RECEIVED.—If a court, in a hearing under
14 subsection (d), determines that a firearm or ammunition
15 surrendered by or removed from a respondent under sub-
16 section (f) is owned by an individual other than the re-
17 spondent, the court may order the United States marshal
18 or designated law enforcement officer in possession of the
19 firearm or ammunition to transfer the firearm or ammuni-
20 tion to that individual if—

21 “(1) the individual may lawfully own and pos-
22 sess firearms and ammunition; and

23 “(2) the individual will not provide the respond-
24 ent with access to the firearm or ammunition.

1 “(i) PENALTY FOR FALSE REPORTING OR FRIVO-
2 LOUS PETITIONS.—An individual who knowingly submits
3 materially false information to the court in a petition for
4 an extreme risk protection order under this section, or who
5 knowingly files such a petition that is frivolous, unreason-
6 able, or without foundation, shall be fined not less than
7 \$1,000, in addition to any other penalty authorized by law,
8 as the court deems necessary to deter such abuse of proc-
9 ess.

10 “(j) MODEL POLICY.—

11 “(1) IN GENERAL.—The Director shall draft a
12 model policy to maximize the accessibility of extreme
13 risk protection orders.

14 “(2) CONTENTS.—In drafting the model policy
15 under paragraph (1), the Director shall—

16 “(A) ensure that State and local law en-
17 forcement officers and members of the public
18 without legal training are able to easily file pe-
19 titions for extreme risk protection orders;

20 “(B) prescribe outreach efforts by employ-
21 ees of the district courts of the United States
22 to familiarize relevant law enforcement officers
23 and the public with the procedures for filing pe-
24 titions, either—

25 “(i) through direct outreach; or

1 “(ii) in coordination with—

2 “(I) relevant officials in the exec-
3 utive or legislative branch of the Fed-
4 eral Government; or

5 “(II) with State and local offi-
6 cials;

7 “(C) prescribe policies for allowing the fil-
8 ing of petitions and prompt adjudication of pe-
9 titions on weekends and outside of normal court
10 hours;

11 “(D) prescribe policies for coordinating
12 with law enforcement agencies to ensure the
13 safe, timely, and effective service of extreme
14 risk protection orders and relinquishment of
15 firearms, ammunition, and permits, as applica-
16 ble; and

17 “(E) identify governmental and non-gov-
18 ernmental resources and partners to help offi-
19 cials of the district courts of the United States
20 coordinate with civil society organizations to en-
21 sure the safe and effective implementation of
22 this section.

23 “(k) REPORTING.—

24 “(1) INDIVIDUAL REPORTS.—

1 “(A) IN GENERAL.—Not later than 2 court
2 days after the date on which a court issues or
3 dissolves an extreme risk protection order under
4 this section or an extreme risk protection order
5 expires without being renewed, the court shall
6 notify—

7 “(i) the Attorney General;

8 “(ii) each relevant mental health
9 agency in the State in which the order is
10 issued; and

11 “(iii) State and local law enforcement
12 officials in the jurisdiction in which the
13 order is issued, including the national in-
14 stant criminal background check system
15 single point of contact for the State of res-
16 idence of the respondent, where applicable.

17 “(B) FORMAT.—A court shall submit a no-
18 tice under subparagraph (A) in an electronic
19 format, in a manner prescribed by the Attorney
20 General.

21 “(C) UPDATE OF DATABASES.—As soon as
22 practicable and not later than 5 days after re-
23 ceiving a notice under subparagraph (A), the
24 Attorney General shall update the background
25 check databases of the Attorney General to re-

1 flect the prohibitions articulated in the applica-
2 ble extreme risk protection order.

3 “(2) ANNUAL REPORTS.—Not later than 1 year
4 after the date of enactment of the Extreme Risk
5 Protection Order Act of 2019, and annually there-
6 after, the Director shall submit to the Committee on
7 the Judiciary of the Senate and the Committee on
8 the Judiciary of the House of Representatives a re-
9 port that includes, with respect to the preceding
10 year—

11 “(A) the number of petitions for ex parte
12 orders filed, as well as the number of such or-
13 ders issued and the number denied;

14 “(B) the number of petitions for long-term
15 orders filed, as well as the number of such or-
16 ders issued and the number denied;

17 “(C) the number of petitions for renewals
18 of long-term orders filed, as well as the number
19 of such orders issued and the number denied;
20 and

21 “(D) the number of cases in which a court
22 has issued a penalty for false reporting or frivo-
23 lous petitions.

1 “(l) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section.

4 “(m) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion or an amendment made to this section shall be con-
6 strued to alter the requirements of subsections (d)(8) or
7 (g)(8) of section 922, related to domestic violence protec-
8 tive orders”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) TABLE OF SECTIONS.—The table of sections
11 for such chapter is amended by adding at the end
12 the following:

“932. Extreme risk protection orders.”.

13 (2) FORFEITURE.—Section 924(d)(3) of title
14 18, United States Code, is amended—

15 (A) in subparagraph (E), by striking
16 “and” at the end;

17 (B) in subparagraph (F), by striking the
18 period and inserting “; and”; and

19 (C) by adding at the end the following:

20 “(G) any attempt to violate an extreme risk
21 protection order issued under section 932.”.

22 **SEC. 4. FEDERAL FIREARMS PROHIBITION.**

23 Section 922 of title 18, United States Code, is
24 amended—

25 (1) in subsection (d)—

1 (A) in paragraph (8)(B)(ii), by striking
2 “or” at the end;

3 (B) in paragraph (9), by striking the pe-
4 riod and inserting “; or”; and

5 (C) by inserting after paragraph (9) the
6 following:

7 “(10) is subject to a court order, the primary
8 purpose of which is to reduce the risk of firearm-re-
9 lated death or injury, by prohibiting such person
10 from having under his or her custody or control,
11 owning, purchasing, possessing, or receiving any
12 firearms, provided that the order—

13 “(A) is issued in a manner consistent with
14 the due process rights of the person; and

15 “(B) is based on a finding that the person
16 poses a danger of causing harm to himself, her-
17 self, or others by having access to a firearm.”;
18 and

19 (2) in subsection (g)—

20 (A) in paragraph (8)(C)(ii), by striking
21 “or” at the end;

22 (B) in paragraph (9), by striking the
23 comma and inserting “; or”; and

24 (C) by inserting after paragraph (9) the
25 following:

1 “(10) is subject to a court order, the primary
2 purpose of which is to reduce the risk of firearm-re-
3 lated death or injury, by prohibiting such person
4 from having under his or her custody or control,
5 owning, purchasing, possessing, or receiving any
6 firearms, provided that the order—

7 “(A) is issued in a manner consistent with
8 the due process rights of the person; and

9 “(B) is based on a finding that the person
10 poses a danger of causing harm to himself, her-
11 self, or others by having access to a firearm.”.

12 **SEC. 5. IDENTIFICATION RECORDS.**

13 Section 534 of title 28, United States Code, is
14 amended—

15 (1) in subsection (a)—

16 (A) in paragraph (3), by striking “and” at
17 the end; and

18 (B) by redesignating paragraph (4) as
19 paragraph (5) and inserting after paragraph
20 (3) the following:

21 “(4) acquire, collect, classify, and preserve
22 records from Federal, tribal, and State courts and
23 other agencies identifying individuals subject to ex-
24 treme risk protection orders, as defined in section 2
25 of the Extreme Risk Protection Order Act of 2019

1 and section 932 of title 18, provided that such
2 records must be destroyed when those orders expire
3 or are terminated or dissolved; and”;

4 (2) in subsection (b), by striking “(a)(4)” and
5 inserting “(a)(5)”; and

6 (3) by adding at the end the following:

7 “(g) Federal, tribal, and State criminal justice agen-
8 cies and criminal and civil courts may—

9 “(1) include extreme risk protection orders, as
10 defined in section 2 of the Extreme Risk Protection
11 Order Act of 2019 and section 932 of title 18, in na-
12 tional crime information databases, as that term is
13 defined in subsection (f)(3) of this section; and

14 “(2) have access to information regarding ex-
15 treme risk protection orders through the national
16 crime information databases.”.

17 **SEC. 6. CONFORMING AMENDMENT.**

18 Section 3(1) of the NICS Improvement Amendments
19 Act of 2007 (34 U.S.C. 40903(1)) is amended by striking
20 “section 922(g)(8)” and inserting “paragraph (8) or (10)
21 of section 922(g)”.

22 **SEC. 7. FULL FAITH AND CREDIT.**

23 Any extreme risk protection order issued under a
24 State or tribal law enacted in accordance with this Act
25 shall be accorded the same full faith and credit by the

1 court of another State or Indian Tribe (the enforcing
2 State or Indian Tribe) and enforced by the court and law
3 enforcement personnel of the other State or tribal govern-
4 ment as if it were the order of the enforcing State or In-
5 dian Tribe.

6 **SEC. 8. SEVERABILITY.**

7 If any provision of this Act, or an amendment made
8 by this Act, or the application of such provision to any
9 person or circumstance, is held to be invalid, the remain-
10 der of this Act, or an amendment made by this Act, or
11 the application of such provision to other persons or cir-
12 cumstances, shall not be affected.

